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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,714	08/04/2003	Robert G. Capurso	85284THC	6498

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EXAMINER

TWEEL JR, JOHN ALEXANDER

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,714

Applicant(s)

CAPURSO ET AL.

Examiner

John A. Tweel, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-23 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This Office action is in response to the amendment filed 3/2/05.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by **Wilkes et al** [U.S. 6,622,410].

For claim 1, the shelf talker taught by **Wilkes** includes the following claimed subject matter, as noted, 1) the claimed backplane is met by the backing (No. 59) including the electrical conductors (No. C), 2) the claimed plurality of single character display chips is met by the LCD display (No. 60) having a plurality of single character display chips in electrical contact with the electrical conductors through pickup coils (No. 54), and 3) the claimed graphic overlay is met by the front of the display body (No. 11) having an overlay (No. 57) located over the backplane bearing the longer term information and having an aperture for displaying the short term information displayed by the LCD display.

For claim 2, the LCD seen in Figure 3 of **Wilkes** is seen to display numbers, a dollar sign, a cent sign, a "per" sign, and decimal point.

For claim 4, one piece of information seen in Figure 3 of **Wilkes** is a UPC code.

For claim 5, another piece of information seen in Figure 3 is a product description.

4. Claims 3, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wilkes et al** in view of **Brick et al** [U.S. 6,269,342].

For claim 3, the shelf talker of **Wilkes** includes the claimed subject matter as discussed in the rejection of claim 1 above. However, there is no mention of mounting the display using a conductive adhesive.

Using conductive adhesives in shelf display systems is not new in the prior art. The programmable shelf tag system taught by **Brick** includes one embodiment seen in Figure 4 using a conductive adhesive (No. 62) placed along a back plate (No. 18) for a shelf tag (No. 10). This combination allows for simpler production of the shelf tag and fewer components which both add costs savings to the shelf tag.

The **Brick** reference pertains to similar subject matter as the primary reference; that is, a programmable shelf talker and the mounting to the shelf. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include conductive adhesive into the reference of **Wilkes** for the purpose of adding costs savings to the production of the shelf tag.

For claim 6, to display a unit price on a grocery or store shelf is not considered a patentable innovation as unit prices have been displayed on grocery shelves for years. This is considered an obvious variation on prior art display systems.

For claim 7, one embodiment (No. 330') of **Brick** includes a logo.

5. Claims 8-23 are allowed.

6. The following is an examiner's statement of reasons for allowance:

Merely reciting a shelf talker with a combination display chips and graphic overlay is clearly not specific enough to obviate over the prior art. However, the embodiments introduced in the remaining independent claims do recite more specific examples of the inventive properties of the application. LCD displays have been made up of display chips for many years; however, the single character display chip recited in claim 8 with its support layer, unpatterned first conductor layer, layer of bistable cholesteric liquid crystal material leaving a portion exposed for making contact, and a patterned conductor layer is not to be found in the prior art. Also, the shelf talker in conjunction with the shelf talker writer having an arrangement of electrical contacts and a driver for applying drive signals as well as a digital camera is not to be found in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Argument 1:

"Wilkes et al disclose a shelf-edge display system, commonly referred to as an Electronic Shelf Label (ESL). Contrary to the characterization of Wilkes et al in the

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Office Action, Wilkes et al does not disclose or suggest a shelf talker. As known in the industry, and as disclosed in the specification at page 1 in the background, a shelf talker is used in addition to ESLs. As stated in the background, 'Along with ESL systems, integrated within the shelf rails, are the use of larger shelf talkers used to attract the customers attention by portraying a special item or price.' The background of the specification gives examples of systems including both ESLs and shelf talkers."

Argument 2:

"Neither Wilkes et al nor Brick et al, teach, disclose or suggest the use of a single character display chip, or the use of multiple single character display chips to form a single display."

7. Applicant's arguments filed 3/2/05 have been fully considered but they are not persuasive.

Response to Argument 1:

The Examiner is having a difficult time figuring out the exact difference between a shelf talker and an ESL. Both present information such as price and an item to a customer. Indeed, there seems to be no difference in the drawings of both the applied reference and the application. If the only difference is size and nomenclature, then this is decidedly not sufficient to grant patentability when the general form and function of the two displays are nearly identical.

Response to Argument 2:

Figure 3 of **Wilkes et al** plainly shows a plurality of single characters. As these characters are produced using some sort of chip, then this meets the claimed subject matter as disclosed above.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Tweel, Jr. whose telephone number is 571 272 2969. The examiner can normally be reached on M-F 10-6:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on 571 272 2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAT
6/24/05



JOHN TWEEL
PRIMARY EXAMINER